

# **EXHIBIT H**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**CSX TRANSPORTATION, INC.,  
individually and on behalf of NORFOLK  
& PORTSMOUTH BELT LINE RAILROAD  
COMPANY,**

**Plaintiff,**

**v.**

**Civil Action No. 2:18cv530**

**NORFOLK SOUTHERN RAILWAY  
COMPANY, NORFOLK & PORTSMOUTH  
BELT LINE RAILROAD COMPANY,  
JERRY HALL, THOMAS HURLBUT,  
PHILIP MERILLI, and CANNON MOSS,**

**Defendants.**

**DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY'S  
FIRST SUPPLEMENTAL RULE 26(a)(1) INITIAL DISCLOSURES**

Defendant Norfolk Southern Railway Company ("NSR"), by counsel, pursuant to Federal Rule of Civil Procedure 26(a)(1), submits the following for its First Supplemental Initial Disclosures:

**A. The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

1. Corporate Representative for Plaintiff CSX Transportation, Inc.

c/o Robert W. McFarland, Esq.  
Benjamin L. Hatch, Esq.  
McGuireWoods LLP  
World Trade Center  
101 West Main Street, Suite 9000

Norfolk, Virginia 23510-1655  
Telephone: (757) 640-3716  
Facsimile: (757) 640-3930  
Email: rmcfarland@mcguirewoods.com  
Email: bhatch@mcguirewoods.com

CSX Transportation, Inc. may have discoverable information regarding the allegations made in the Complaint and NSR's responsive pleading.

2. Corporate Representative for Norfolk Southern Railway Company

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Norfolk Southern Railway Company's Corporate Representative may have discoverable information regarding the allegations made in the Complaint and NSR's responsive pleading.

3. Corporate Representative for Norfolk & Portsmouth Belt Line Railroad Company

c/o James L. Chapman, IV (VSB No. 21983)  
W. Ryan Snow (VSB No. 47423)  
Darius K. Davenport (VSB No. 74064)  
David C. Hartnett (VSB No. 80452)  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 W. Main Street, Suite 1500

Norfolk, Virginia 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
Email: jchapman@cwm-law.com  
Email: wrsnow@cwm-law.com  
Email: ddavenport@cwm-law.com  
Email: dhartnett@cwm-law.com

Norfolk and Portsmouth Belt Line Railroad Company's ("NPBL") Corporate Representative may have discoverable information regarding the allegations made in the Complaint and NPBL's responsive pleading.

4. Defendant Cannon Moss

c/o W. Edgar Spivey (VSB No. 29125)  
Clark J. Belote (VSB No. 87310)  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Tel. (757) 624-3000  
Fax. (757) 360-9092  
Email: wespipey@kaufcan.com  
Email: cjbelote@kaufcan.com

Cannon Moss may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

5. Defendant Jerry Hall

c/o Hugh M. Fain, III (VSB No. 26494)  
M.F. Connell Mullins Jr. (VSB No. 47213)  
John M. Erbach (VSB No. 76695)  
SPOTTS FAIN P.C.  
411 East Main Street, Suite 600  
Richmond, VA 23219  
Tel. (804) 697-2000  
Fax (804) 697-2100  
Email: hfain@spottsfain.com  
Email: cmullins@spottsfain.com  
Email: jerbach@spottsfain.com

Jerry Hall may have discoverable information regarding the allegations made in the Complaint and

his responsive pleading.

6. Defendant Thomas Hurlbut

c/o Hugh M. Fain, III (VSB No. 26494)  
M.F. Connell Mullins Jr. (VSB No. 47213)  
John M. Erbach (VSB No. 76695)  
SPOTTS FAIN P.C.  
411 East Main Street, Suite 600  
Richmond, VA 23219  
Tel. (804) 697-2000  
Fax (804) 697-2100  
Email: hfain@spottsfain.com  
Email: cmullins@spottsfain.com  
Email: jerbach@spottsfain.com

Thomas Hurlbut may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

7. Defendant Philip Merilli

c/o Hugh M. Fain, III (VSB No. 26494)  
M.F. Connell Mullins Jr. (VSB No. 47213)  
John M. Erbach (VSB No. 76695)  
SPOTTS FAIN P.C.  
411 East Main Street, Suite 600  
Richmond, VA 23219  
Tel. (804) 697-2000  
Fax (804) 697-2100  
Email: hfain@spottsfain.com  
Email: cmullins@spottsfain.com  
Email: jerbach@spottsfain.com

Philip Merilli may have discoverable information regarding the allegations made in the Complaint and his responsive pleading.

8. Present or former Norfolk and Portsmouth Belt Line Railroad Company board members.

9. A records custodian from NSR who will have discoverable information relating to intermodal transportation agreements.

10. The persons and entities identified in Plaintiff and Co-Defendants' Rule 26(a)(1) initial disclosures and/or during discovery in this matter.

11. Other third parties, including anyone referred to in the documents produced in this case, may have information or knowledge of Plaintiff's claimed damages, the identity of whom may be obtained through discovery in this matter.

12. Leslie S. Farless

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Ms. Farless may have discoverable information regarding shareholder information that NSR received from NPBL and records related to the appointment and resignation of the NPBL board members appointed by NSR.

13. Jeffrey S. Heller

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200

Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Heller may have discoverable information regarding CSXT's rate proposals to NPBL, competition at NIT, communications with the VPA, and general information regarding the international and intermodal markets.

14. Thomas Hurlburt

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Hurlburt may have discoverable information regarding the operation of NPBL Board during his time as Director, including without limitation CSXT's 2018 rate proposal to NPBL.

15. Randall W. Hunt

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Hunt may have discoverable information regarding trackage rights agreements.

16. David Stinson

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com

Email: kathleen.knudsen@troutman.com

Mr. Stinson may have discoverable information regarding the operation of NPBL Board during his time as President and General Manager of NPBL, including without limitation CSXT's 2010 rate proposal to NPBL.

17. Kenneth E. Joyner

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Joyner may have discoverable information regarding competition at NIT.

18. Rob Martinez

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)

TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Martinez may have discoverable information regarding NSR's relationship with VPA.

19. Chris D. Luebbbers

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Luebbbers may have discoverable information regarding NPBL rate committee and information regarding competition at NIT.

20. Michael R. McClellan

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com

Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. McClellan may have discoverable information regarding CSXT's rate proposals to NPBL, competition at NIT, communications with the VPA, and general information regarding the international and intermodal markets.

21. Greg Summy

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Summy may have discoverable information regarding the NPBL Board.

22. Cary G. Booth

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)

TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Mr. Booth may have discoverable information regarding CSX's use of NPBL in 2015.

23. Amanda Nelson

c/o Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804)-697-1200  
Facsimile: (804)-698-6061  
Email: alan.wingfield@troutman.com  
Email: michael.lacy@troutman.com

John C. Lynch (VSB No. 39267)  
Kathleen M. Knudsen (VSB No. 90845)  
TROUTMAN SANDERS LLP  
222 Central Park Avenue, Suite 2000  
Virginia Beach, VA 23462  
Telephone: (757) 687-7759  
Facsimile: (757) 687-7510  
Email: john.lynch@troutman.com  
Email: kathleen.knudsen@troutman.com

Ms. Nelson may have discoverable information regarding competition at NIT.

**B. A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

In support of its claims or defenses, NSR may use NPBL corporate documents, NPBL shareholder agreements, service agreements, trackage agreements, and related correspondence. NSR may also be in possession of other documents relevant to the claims and defenses in this case.

Additionally, NSR reserves the right to use any document produced by other parties or obtained from third parties through discovery. NSR reserves the right to supplement as applicable documents are made known to defense counsel. NSR further reserves the right to object to the production of any documents described above on any basis permitted by the *Federal Rules of Civil Procedure*.

**C. A computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

None at this time.

**D. Attach for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

At this time, NSR has not identified an applicable insurance agreement.

Defendant will supplement these disclosures in the event more individuals with knowledge and information become available and if more documents become available.

Dated: November 22, 2019

Respectfully submitted,

**NORFOLK SOUTHERN RAILWAY COMPANY**

By: /s/ Michael E. Lacy

Alan D. Wingfield (VSB No. 27489)

Michael E. Lacy (VSB No. 48477)

TROUTMAN SANDERS, LLP

1001 Haxall Point

Richmond, Virginia 23219

Telephone: (804)-697-1200

Facsimile: (804)-698-6061

Email: [alan.wingfield@troutman.com](mailto:alan.wingfield@troutman.com)

Email: [michael.lacy@troutman.com](mailto:michael.lacy@troutman.com)

John C. Lynch (VSB No. 39267)

Kathleen M. Knudsen (VSB No. 90845)

TROUTMAN SANDERS LLP

222 Central Park Avenue, Suite 2000

Virginia Beach, VA 23462

Telephone: (757) 687-7759

Facsimile: (757) 687-7510

Email: [john.lynch@troutman.com](mailto:john.lynch@troutman.com)

Email: [Kathleen.knudsen@troutman.com](mailto:Kathleen.knudsen@troutman.com)

*Counsel for Norfolk Southern Railway Company*

**CERTIFICATE OF SERVICE**

I certify that on this 22th day of November 2019, the foregoing was sent to the following  
counsel of record by Electronic Mail to:

James L. Chapman, IV (VSB No. 21983)  
W. Ryan Snow (VSB No. 47423)  
Darius K. Davenport (VSB No. 74064)  
David C. Hartnett (VSB No. 80452)  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 W. Main Street, Suite 1500  
Norfolk, Virginia 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
jchapman@cwm-law.com  
wrsnow@cwm-law.com  
ddavenport@cwm-law.com  
dhartnett@cwm-law.com  
*Counsel for Defendant Norfolk & Portsmouth Belt Line Railroad Co.*

W. Edgar Spivey (VSB No. 29125)  
Clark J. Belote (VSB No. 87310)  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Tel. (757) 624-3000  
Fax. (757) 360-9092  
wespivey@kaufcan.com  
cjbelote@kaufcan.com  
*Counsel for Defendant Cannon Moss*

Hugh M. Fain, III (VSB No. 26494)  
M.F. Connell Mullins Jr. (VSB No. 47213)  
John M. Erbach (VSB No. 76695)  
SPOTTS FAIN P.C.  
411 East Main Street, Suite 600  
Richmond, VA 23219  
Tel. (804) 697-2000  
Fax (804) 697-2100  
hfain@spottsfain.com  
cmullins@spottsfain.com  
jerbach@spottsfain.com  
*Counsel for Defendants Jerry Hall, Thomas Hurlbut, and Philip Merilli*

Robert W. McFarland (VSB No. 24021)  
Benjamin L. Hatch (VSB No. 70116)  
Jeanne E. Noonan (VSB No. 87863)  
McGuireWoods LLP  
World Trade Center  
101 West Main Street, Suite 9000  
Norfolk, Virginia 23510-1655  
Telephone: (757) 640-3716  
Facsimile: (757) 640-3930  
E-mail: rmcfarland@mcguirewoods.com  
E-mail: bhatch@mcguirewoods.com  
E-mail: jnoonan@mcguirewoods.com

*Counsel for CSX Transportation, Inc.*

/s/ Michael E. Lacy

Alan D. Wingfield (VSB No. 27489)  
Michael E. Lacy (VSB No. 48477)  
TROUTMAN SANDERS, LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Tel: 804-697-1200  
Fax: 804-698-6061  
alan.wingfield@troutman.com  
michael.lacy@troutman.com

*Counsel for Defendant Norfolk Southern Railway  
Company*

40685861v1